

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED

SEP 26 2019

Clerk, U S District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PHILIP MICHAEL FRISCIA,

Defendant.

CR 16-29-M-DWM-2

ORDER

On September 11, 2019, United States Magistrate Judge Kathleen DeSoto entered Findings and Recommendation with respect to the disposition of the revocation proceedings stemming from the August 20, 2019 petition for revocation of Defendant Philip Michael Friscia's supervised release. (Docs. 115, 131.) Based upon a preponderance of the evidence, Judge DeSoto concluded Friscia violated the condition of his release requiring he refrain from any unlawful use of a controlled substance in the manner set forth in violation number 1 of the petition. (Doc. 115 at 2.) Judge DeSoto recommends supervised release be revoked and this Court sentence Friscia to 12 months custody with 10 months of supervised release to follow. Neither party filed any objections.

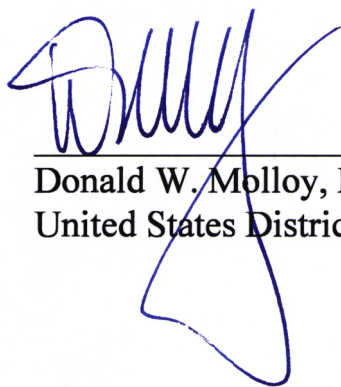
Failure to object waives the right to review. Fed. R. Crim. P. 59(b)(2). But

consistent with the Court's "full authority" to review the Findings and Recommendation under any standard it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 154 (1958), the Court reviews for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). Finding no clear error in Judge DeSoto's conclusion or recommendation,

IT IS ORDERED Judge DeSoto's Findings and Recommendation (Doc. 131) is ADOPTED IN FULL.¹

IT IS FURTHER ORDERED that Friscia's supervised release is revoked. Judgment will be entered by separate document.

Dated this 26th day of September, 2019.



Donald W. Molloy, District Judge
United States District Court

¹ Consistent with Friscia's February 22, 2018 Judgment on Revocation, (see Doc. 92 at 6), the Defendant will be subject to the Court's long-form alcohol and controlled substances special condition.